

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 254 OF 2022

1. M/s. Shriram Bioseeds Genetics
A company incorporated under
the Companies Act, 1956,
Having its office at RH-7,
Sector-C, Sara Nagar, N-1
CIDCO, Aurangabad 431003
2. Aseem S/o Kapildev Sharma
Age- 57 years, Occ: Zonal
Manager, RH-7, Sector C
Sara Nagar, N-1, CIDCO
MIDC, Aurangabad 43116.
3. M/s. Shree Ganesh Krushi Seva
Kendra, Phulambri, Tq.
Phulambri, Dist. Aurangabad.
4. Sanjay S/o Nanasaheb Kale,
Age- 52 years, Occ: Prop.
Shree Ganesh Krushi Kendra,
Phulambri, Dist. Aurangabad. ...Petitioners

Versus

1. The State of Maharashtra
2. Kasliwal S/o Vijay D.
Age : Major, Occ: Seed
Inspector & Taluka Agriculture
Officer, Phulambri,
Dist. Aurangabad. ...Respondents

Mr. G. P. Shinde, Advocate for the Petitioners.
Mr. V. S. Badakh, Advocate for Respondents.

CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 05, 2023
PRONOUNCED ON : JULY 11, 2023

ORDER

1. This Petition is filed for quashment of proceedings filed by the Seeds Inspector vide R.C.C. No. 68/2014 pending before learned JMFC, Phulambri, Dist. Aurangabad.

2. Petitioner No. 1 is a company incorporated under the Companies Act and is in the business of production and marketing of hybrid seeds. The inspector under Section 14 of the Seeds Act visited the Petitioner Company on 23.07.2011 for drawing samples as routine work at the premises of M/s. Shree Ganesh Krushi Seva Kendra. Accordingly, sample was drawn of Hybrid Maize Seed variety "Commando" Lot No. CTWG-1998 produced by the Petitioner No. 1 company. The said sample was send for analyses to the Testing Laboratory, Parbhani. The result of analysis vide report no. 4121 dated 12.08.2011 that the sample of the seed is not according to the specification required and failed in germination. It was found in the said report that the sample has failed in germination which is only 10% as against specified value of 90% of the concerned lot. The Seed Inspector, therefore, filed complaint before

JMFC on 01.04.2014.

3. It is the contention of the Petitioners that the sample seed has expired on 25.02.2012 and, therefore, the Petitioners have lost valuable right under Section 16(2) of the Seeds Act and therefore, the proceedings filed before the JMFC cannot be permitted to continue and deserves to be quashed. Learned Counsel for the Petitioners submitted that the form no. 8 while taking samples records that the seed was valid upto 26.02.2012. Thus, according to him, since the complaint is filed on 01.04.2014, the Petitioners have lost their valuable right of sending part of the sample to the Central Seed Laboratory for reanalysis. In support of his submissions, he relied on judgment of Apex Court in case of Mahyco Vegetable Seeds Ltd. & Ors. Vs. State of Maharashtra and Ors, 2018 ALL MR (Cri) 910 (S.C.).

4. Learned APP opposed the Petition by contenting that without filing an application before the JMFC for sending the sample to the Central Seeds Laboratory, it cannot be claimed by the Petitioners that they lost their right of reanalysis.

5. There is no dispute about the fact that Seed Inspector took samples of the concerned seed on 23.07.2011 and that the same were send for analysis to the Testing Laboratory. It is further not in dispute that the result of the said testing report no. 4121 dated 12.08.2011 suggested that the sample has failed in germination which is only 10% as against specified value of 90% in the concerned lot. Form No. 8 filled by the Seed Inspector dated 23.07.2011 clearly shows that the validity of the seed is upto 26.02.2012. There is no denial of the fact that the complaint was filed before the JMFC on 01.04.2014. It is, therefore, undisputed fact that the shell life of the sample taken by the Seed Inspector expired much before filing of the complaint before JMFC.

6. Section 16(2) of Seeds Act provides for the right of the accused to make an application for sending samples for reanalysis to the Central Seed Laboratory. The said provision enables the accused to defend himself and to prove his innocence. The said provision creates indispensable right in favour of the accused. Once the complaint is filed after the expiry of the

validity period of the said sample, the accused is deprived of sending it for reanalysis. Hon'ble Apex Court in Mayco Vegetable Seeds Ltd (supra) has held that such deprivation will go to the root of the matter and render the prosecution futile and redundant.

7. In view of the above, the proceedings cannot be proceeded further against Petitioners and deserves to be quashed. Hence, the Petition is allowed in terms of prayer clause 'B'.

(R.M. JOSHI, J.)

Malani